

AN ACT

relating to the transfer of the regulation of motor fuel metering and motor fuel quality from the Department of Agriculture to the Texas Department of Licensing and Regulation; providing civil and administrative penalties; creating criminal offenses; requiring occupational licenses; authorizing fees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle A, Title 14, Occupations Code, is amended by adding Chapter 2310 to read as follows:

CHAPTER 2310. MOTOR FUEL METERING AND QUALITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2310.001. DEFINITIONS. (a) In this chapter:

(1) "Commercial weighing or measuring device" means a weighing or measuring device used in a commercial transaction.

(2) "Commission" means the Texas Commission of Licensing and Regulation.

(3) "Dealer" means a person who:

(A) is the operator of a service station or other retail outlet; and

(B) delivers motor fuel into the fuel tanks of motor vehicles or motor boats.

(4) "Department" means the Texas Department of Licensing and Regulation.

(5) "Executive director" means the executive director

1 of the department.

2 (6) "Motor fuel" has the meaning assigned by Section
3 162.001, Tax Code.

4 (7) "Motor fuel metering device" means a commercial
5 weighing or measuring device used for motor fuel sales.

6 (8) "Operator" or "user" means a person in possession
7 or control of a weighing or measuring device.

8 (9) "Sell" includes barter or exchange.

9 (10) "Weighing or measuring device" means a scale or a
10 mechanical or electronic device used to dispense or deliver a motor
11 fuel by weight, volume, flow rate, or other measure or to compute
12 the charge for a service related to motor fuel.

13 (11) "Weight or measure of a motor fuel" means the
14 weight or measure of a motor fuel as determined by a weighing or
15 measuring device.

16 (b) A reference to the weight of a motor fuel in this chapter
17 is a reference to the net weight of the motor fuel.

18 Sec. 2310.002. ENFORCEMENT OF CHAPTER.

19 (a) Notwithstanding any other law, the department shall
20 administer and enforce the provisions of this chapter and shall
21 regulate all motor fuel metering devices sold or offered for sale in
22 this state. The department may purchase apparatus as necessary for
23 the administration of this chapter.

24 (b) To the extent this chapter conflicts with Chapter 13,
25 Agriculture Code, with regard to motor fuel metering devices, this
26 chapter controls.

27 (c) The department may contract with one or more license

1 holders under Subchapter D of this chapter or Subchapter I, Chapter
2 13, Agriculture Code, to perform the department's duties under this
3 chapter related to motor fuel metering devices. A reference in this
4 chapter to the commission or department in the context of a
5 contracted service means the contractor.

6 Sec. 2310.003. CIVIL PENALTY; INJUNCTION. (a) A person
7 who violates Subchapter B or C or a rule adopted under Subchapter B
8 or C is liable to the state for a civil penalty not to exceed \$500
9 for each violation. Each day a violation continues may be
10 considered a separate violation for purposes of a civil penalty
11 assessment.

12 (b) On request of the executive director, the attorney
13 general or the county attorney or district attorney of the county in
14 which the violation is alleged to have occurred shall file suit to
15 collect the penalty.

16 (c) A civil penalty collected under this section shall be
17 deposited in the state treasury to the credit of the general revenue
18 fund. A civil penalty recovered in a suit first instituted by one
19 or more local governments under this section shall be equally
20 divided between this state and each local government that first
21 instituted the suit, with 50 percent of the recovery deposited to
22 the credit of the general revenue fund and the other 50 percent
23 distributed equally to each local government.

24 (d) The executive director is entitled to appropriate
25 injunctive relief to prevent or abate a violation of this chapter or
26 a rule adopted under this chapter. On request of the executive
27 director, the attorney general or the county or district attorney

1 of the county in which the alleged violation is threatened or is
2 occurring shall file suit for the injunctive relief. Venue is in
3 the county in which the alleged violation is threatened or is
4 occurring.

5 (e) The department and the attorney general may each recover
6 reasonable expenses incurred in obtaining injunctive relief and
7 civil penalties under this section, including investigative costs,
8 court costs, reasonable attorney's fees, witness fees, and
9 deposition expenses. The expenses recovered by the department may
10 be appropriated only to the department for the administration and
11 enforcement of this chapter. The expenses recovered by the
12 attorney general may be appropriated only to the attorney general.

13 SUBCHAPTER B. STANDARD WEIGHTS AND MEASURES FOR MOTOR FUEL

14 Sec. 2310.051. LEGAL STANDARDS. (a) The legal standard
15 for the weight or measure of a motor fuel in this state is the
16 standard weight or measure adopted and used by the government of the
17 United States for that motor fuel. If the United States does not
18 provide a standard weight or measure for a motor fuel, the standard
19 for the motor fuel is that established by this subchapter.

20 (b) The commission may adopt rules for the purpose of
21 administering this subchapter and bringing about uniformity
22 between the standards established under this subchapter and the
23 standards established by federal law.

24 (c) Except as otherwise provided by an express contract, a
25 contract for work or sales by weight or measure of a motor fuel
26 shall be construed in accordance with the standards of this
27 subchapter.

1 (d) The standards of this subchapter shall be the guide for
2 making any adjustment of weighing or measuring devices under the
3 law of this state.

4 Sec. 2310.052. STANDARD FOR LIQUID MOTOR FUEL. (a) This
5 section does not apply to compressed natural gas or liquefied
6 natural gas.

7 (b) The standard unit of measure of capacity for liquid
8 motor fuels is the gallon.

9 (c) Except as provided by Subsections (d) and (e), all other
10 measures of capacity for liquid motor fuels are derived from the
11 gallon by continual division by two, making half gallons, quarts,
12 pints, half pints, and gills.

13 (d) A mechanism or machine that is adapted to measure and
14 deliver liquid motor fuels by volume and that indicates fractional
15 parts of a gallon shall indicate the fractional parts either in
16 terms of binary submultiple subdivisions or in terms of tenths of a
17 gallon.

18 (e) For purposes of the retail sale of motor fuel only, the
19 liquid gallon contains 231 cubic inches without adjustment based on
20 the temperature of the liquid.

21 Sec. 2310.053. EXEMPTION OF CERTAIN MOTOR FUEL METERING
22 DEVICES. (a) The commission by rule may exempt a motor fuel
23 metering device from a requirement established by this chapter if
24 the commission determines that imposing or enforcing the
25 requirement:

26 (1) is not cost-effective for the department;

27 (2) is not feasible with current resources or

1 standards; or

2 (3) will not substantially benefit or protect
3 consumers.

4 (b) A motor fuel metering device is exempt from the
5 requirements of this chapter if the motor fuel metering device is
6 not used to:

7 (1) calculate the amount of motor fuel sold in a
8 commercial transaction; or

9 (2) compute the charge for service.

10 Sec. 2310.054. SALE OF MOTOR FUEL BY PROPER MEASURE.

11 (a) Except as otherwise provided by this section, motor fuel shall
12 be sold by liquid measure.

13 (b) Compressed natural gas and liquefied natural gas shall
14 be sold by weight.

15 (c) A person violates this chapter if, in violation of this
16 section, the person sells motor fuel by other than weight or liquid
17 measure.

18 Sec. 2310.055. PRICE ADVERTISEMENT; MISREPRESENTATION OF
19 PRICE OR QUANTITY. (a) If a price sign, card, tag, poster, or
20 other advertisement displaying the price of motor fuel includes a
21 whole number and a fraction, the figures in the fraction shall be of
22 proportionate size and legibility to those of the whole number.

23 (b) A person violates this chapter if the person:

24 (1) misrepresents the price of motor fuel sold or
25 offered or exposed for sale; or

26 (2) represents the price or the quantity of motor fuel
27 sold or offered or exposed for sale in a manner intended or tending

1 to mislead or deceive an actual or prospective customer.

2 Sec. 2310.056. FALSE REPRESENTATION OF MOTOR FUEL QUANTITY.

3 A person violates this chapter if the person or the person's
4 representative or agent:

5 (1) sells or offers or exposes for sale a quantity of
6 motor fuel that is less than the quantity the person represents; or

7 (2) as a buyer furnishing the weight or measure of a
8 motor fuel by which the amount of the motor fuel is determined,
9 takes or attempts to take more than the quantity the person
10 represents.

11 Sec. 2310.057. USE OF INCORRECT MOTOR FUEL METERING DEVICE.

12 (a) A person commits an offense if the person or the person's
13 representative or agent knowingly uses an incorrect weighing or
14 measuring device in:

15 (1) buying or selling motor fuel;

16 (2) computing a charge for services rendered on the
17 basis of weight or measure; or

18 (3) determining the weight or measure of motor fuel,
19 if a charge is made for the determination.

20 (b) For the purpose of this section, a weighing or measuring
21 device is incorrect if it:

22 (1) does not conform as closely as practicable to the
23 official standards;

24 (2) is not accurate;

25 (3) is of a construction that is not reasonably
26 permanent in adjustment or does not correctly repeat its
27 indications;

1 (4) facilitates the perpetration of fraud; or

2 (5) does not conform to the specifications and
3 tolerances under Section 2310.107.

4 Sec. 2310.058. SALE OF MOTOR FUEL IN VIOLATION OF
5 SUBCHAPTER. A person violates this chapter if the person or the
6 person's representative or agent sells or keeps, offers, or exposes
7 for sale motor fuel in violation of this subchapter.

8 Sec. 2310.059. TESTING BY DEPARTMENT. (a) The department
9 shall from time to time weigh or measure an amount of motor fuel
10 that is kept or offered for sale, sold, or in the process of
11 delivery, in order to determine:

12 (1) if the motor fuel is of the amount or quantity
13 represented; or

14 (2) if the motor fuel is being offered for sale or sold
15 in accordance with law.

16 (b) If the department finds that any lot of motor fuel
17 contains less of the motor fuel than the amount represented, the
18 department may seize the motor fuel as evidence.

19 (c) A person commits an offense if the person or the
20 person's employee or agent refuses to exhibit motor fuel being sold
21 or offered for sale at a given weight or quantity, or ordinarily
22 sold in that manner, to the department for testing and proving as to
23 quantity.

24 Sec. 2310.060. STOP-SALE ORDER. (a) If the department has
25 reason to believe that motor fuel is being sold or kept, offered, or
26 exposed for sale in violation of this chapter or that motor fuel is
27 being sold or offered for sale by or through the use of a motor fuel

1 metering device that is in violation of this chapter, the executive
2 director may issue an order to stop the sale of the motor fuel. The
3 executive director shall issue the order to the owner or custodian
4 of the motor fuel or seller of the motor fuel. The person receiving
5 the order may not sell the motor fuel until discharged by a court
6 under Subsection (b) or until the executive director finds that the
7 motor fuel or motor fuel metering device is in compliance with this
8 chapter.

9 (b) The owner, custodian, or seller of motor fuel prohibited
10 from sale by an order of the executive director is entitled to sue
11 in a court where the motor fuel is found or is being sold or offered
12 for sale for a judgment as to the justification of the order and for
13 the discharge of the motor fuel in accordance with the findings of
14 the court.

15 (c) This section does not limit the right of the department
16 to proceed as authorized by other sections of this code.

17 Sec. 2310.061. PENALTIES; DEFENSE. (a) An offense under
18 Section 2310.057 or 2310.059 is a Class C misdemeanor.

19 (b) It is a defense to prosecution or to the imposition of a
20 civil or administrative penalty for a violation of Section 2310.057
21 or 2310.059 that a discrepancy between the actual weight or volume
22 at the time of sale to a consumer or a discrepancy between the fill
23 of a container and the capacity of the container is due to
24 unavoidable leakage, shrinkage, evaporation, waste, or causes
25 beyond the control of the seller acting in good faith.

1 SUBCHAPTER C. INSPECTION AND REGISTRATION OF MOTOR FUEL METERING

2 DEVICES

3 Sec. 2310.101. AUTHORITY TO INSPECT. (a) If the
4 department has reason to believe that a motor fuel metering device
5 is being used for a commercial transaction and the device is not
6 registered with the department, the department may inspect the
7 device and the records of the owner, operator, or user of the device
8 that relate to use of the device to determine whether the device is
9 in compliance with this chapter.

10 (b) The department has reason to believe a motor fuel
11 metering device is being used for a commercial transaction if:

12 (1) the motor fuel metering device is found near motor
13 fuel being sold or offered for sale by weight or measure and the
14 device appears to be under the control or in the possession of the
15 person selling the motor fuel or offering the motor fuel for sale;
16 or

17 (2) other available evidence is sufficient for a
18 prudent person to believe that the motor fuel metering device is
19 being used for a commercial transaction.

20 Sec. 2310.104. COMPLAINTS REGARDING MOTOR FUEL METERING
21 DEVICES. In accordance with Chapter 51, the executive director
22 shall establish methods by which consumers and service recipients
23 are notified of the name, mailing address, and telephone number of
24 the department for the purpose of directing complaints to the
25 department. The department shall provide to the person filing the
26 complaint and to each person who is a subject of the complaint
27 information about the department's policies and procedures

1 relating to complaint investigation and resolution.

2 Sec. 2310.105. REPAIR OR DESTRUCTION OF INCORRECT MOTOR
3 FUEL METERING DEVICES. (a) If, in the judgment of the department,
4 a motor fuel metering device found to be incorrect is not capable of
5 being repaired, the department may condemn, seize, and destroy the
6 device.

7 (b) If, in the judgment of the department, an incorrect
8 motor fuel metering device is capable of being repaired, the
9 department shall place on the device a tag or other mark with the
10 words "Out of Order." The owner or user of the motor fuel metering
11 device may not use it until it is reinspected and released for use
12 by the department or inspected and released for use in any other
13 manner authorized by commission rule.

14 (c) The owner, operator, or user of a motor fuel metering
15 device may not destroy, replace, or otherwise dispose of a device
16 declared to be incorrect or condemned under this section except as
17 provided by commission rule.

18 Sec. 2310.106. INSPECTION OF STANDARDS USED TO PERFORM
19 DEVICE MAINTENANCE ACTIVITIES. (a) In this section, "state
20 metrology laboratory" means the metrology laboratory maintained by
21 the Department of Agriculture under Subchapter C, Chapter 13,
22 Agriculture Code.

23 (b) The commission may adopt rules to regulate the frequency
24 and place of inspection and correction of the standards for motor
25 fuel used by an individual or business licensed by the department to
26 perform device maintenance activities under Subchapter D or an
27 individual or business licensed under Subchapter I, Chapter 13,

1 Agriculture Code.

2 (c) The department may inspect any standard for motor fuel
3 used by an individual or business licensed by the department to
4 perform device maintenance activities described by Subchapter D or
5 an individual or business licensed under Subchapter I, Chapter 13,
6 Agriculture Code, if the department has reason to believe a
7 standard is no longer in compliance with this chapter.

8 (d) The department shall keep a record of the inspection and
9 character of standards for motor fuel inspected under this section.

10 (e) The state metrology laboratory shall purchase
11 additional sets of standards as necessary for use by a department
12 inspector or other department personnel.

13 (f) The state metrology laboratory shall inspect and
14 correct the standards for motor fuel used by a department
15 inspector, another department employee, an individual or business
16 licensed by the department to perform device maintenance activities
17 under Subchapter D, or an individual or business licensed under
18 Subchapter I, Chapter 13, Agriculture Code.

19 (g) The department and the state metrology laboratory shall
20 enter into a memorandum of understanding to implement this section.
21 The memorandum of understanding must provide department personnel
22 and persons licensed under Subchapter D with access to state
23 metrology laboratory services equal to the access provided to
24 Department of Agriculture personnel and persons licensed under
25 Subchapter I, Chapter 13, Agriculture Code, and under equivalent
26 terms and conditions.

27 Sec. 2310.107. TOLERANCES. Specifications and tolerances

1 for motor fuel metering devices shall be the same as those
2 recommended by the National Institute of Standards and Technology.

3 Sec. 2310.108. FEES. The commission by rule shall
4 establish fees in amounts reasonable and necessary to cover the
5 cost of administering this chapter.

6 Sec. 2310.109. REFUSING TO ALLOW TEST OF MOTOR FUEL
7 METERING DEVICE. (a) A person commits an offense if the person
8 refuses to allow a motor fuel metering device under the person's
9 control or in the person's possession to be inspected, tested, or
10 examined by the department, and the inspection, test, or
11 examination is required or authorized by this chapter.

12 (b) A person commits an offense if the person hinders or
13 obstructs in any way the department, a department inspector, or
14 other department employee in the performance of official duties.

15 (c) A person commits an offense if the person removes or
16 obliterates a tag or device placed or required by the department to
17 be placed on a motor fuel metering device under this chapter.

18 Sec. 2310.110. SALE OR USE OF INCORRECT MOTOR FUEL METERING
19 DEVICE. (a) The department may condemn and prohibit the sale or
20 distribution of any incorrect motor fuel metering device that is
21 sold, offered for sale, or about to be sold in this state.

22 (b) A person commits an offense if the person or the
23 person's representative or agent knowingly:

24 (1) offers or exposes for sale, hire, or award or sells
25 an incorrect motor fuel metering device;

26 (2) possesses an incorrect motor fuel metering device;

27 or

1 (3) sells, offers for sale, uses, or possesses for the
2 purpose of sale or use a device or instrument to be used to falsify
3 or intended to falsify a weight or measure for motor fuel.

4 Sec. 2310.111. DISPOSING OF CONDEMNED MOTOR FUEL METERING
5 DEVICE. A person commits an offense if the person or the person's
6 representative or agent disposes of a motor fuel metering device
7 condemned under Section 2310.105 or 2310.110 in a manner contrary
8 to those sections.

9 Sec. 2310.112. PENALTIES. An offense under Section
10 2310.109, 2310.110, or 2310.111 is a Class C misdemeanor.

11 SUBCHAPTER D. LICENSING OF MOTOR FUEL METERING DEVICE SERVICE
12 TECHNICIANS AND MOTOR FUEL METERING DEVICE SERVICE COMPANIES

13 Sec. 2310.151. DEFINITIONS. In this subchapter:

14 (1) "Device maintenance activities" means activities
15 described by Section 2310.152.

16 (2) "License holder" means a person who holds a motor
17 fuel metering device service company license or a motor fuel
18 metering device service technician license.

19 (3) "Service company" means a person who holds a motor
20 fuel metering device service company license issued by the
21 department under this subchapter.

22 (4) "Service technician" means an individual who holds
23 a motor fuel metering device service technician license issued by
24 the department under this subchapter.

25 Sec. 2310.152. DEVICE MAINTENANCE ACTIVITIES. A person
26 performs device maintenance activities if the person or the
27 person's employee:

1 (1) places a motor fuel metering device in service;

2 (2) installs, calibrates, inspects, tests, or repairs
3 a motor fuel metering device; or

4 (3) removes an out-of-order tag, stop-sale order,
5 security seal, lock, condemnation notice, or other form of use
6 prohibition placed on a motor fuel metering device by the
7 department.

8 Sec. 2310.153. POWERS AND DUTIES OF DEPARTMENT. (a) To
9 verify compliance with licensing requirements, trade practices,
10 commission rules, and this chapter, the department may periodically
11 or in response to a complaint or previous violation inspect an
12 applicant's or license holder's:

13 (1) facilities;

14 (2) inspecting and testing equipment and procedures;

15 (3) repair and calibration equipment, standards, and
16 procedures;

17 (4) transportation equipment; and

18 (5) invoices, work orders, and other records related
19 to device maintenance activities.

20 (b) The department may periodically or in response to a
21 complaint or previous violation monitor and inspect or test motor
22 fuel metering devices that have been inspected and tested by a
23 license holder and any standards used by the license holder during
24 an inspection or test.

25 (c) The commission by rule may adopt additional
26 requirements for the issuance of a license and for the denial of an
27 application for a license or renewal of a license. Rules adopted by

1 the commission under this subsection must be designed to protect
2 the public health, safety, and welfare and ensure the proper
3 inspection, testing, and operation of motor fuel metering devices.

4 (d) The commission may adopt other rules necessary for the
5 regulation of device maintenance activities, for the proper
6 operation of motor fuel metering devices, and to protect the
7 health, safety, and welfare of the public and license holders.

8 (e) The department may specify the date, time, and place for
9 any inspection authorized by this section.

10 Sec. 2310.154. EXEMPTIONS FROM LICENSE REQUIREMENTS.

11 (a) A person is not required to hold a license issued under this
12 subchapter if the person:

13 (1) is a department employee who is performing device
14 maintenance activities in the scope of the person's duties for the
15 department;

16 (2) is the owner or operator of a motor fuel metering
17 device or an employee of the owner or operator of a motor fuel
18 metering device and the person:

19 (A) completely removes the motor fuel metering
20 device from the location at which the device was installed,
21 including a device subject to an out-of-order tag, stop-sale order,
22 security seal, lock, condemnation notice, or other item placed on
23 the device by the department to prohibit use of the device; and

24 (B) notifies the department of the motor fuel
25 metering device's removal not later than the 10th day after the date
26 the device was removed in the manner provided by commission rule;

27 (3) performs device maintenance activities only on a

1 motor fuel metering device that is:

2 (A) exempt from the inspection and registration
3 requirements of Sections 2310.102 and 2310.103 under commission
4 rules; and

5 (B) not required to be inspected by other
6 commission rules; or

7 (4) is a license holder under Subchapter I, Chapter
8 13, Agriculture Code.

9 (b) The department is not required to hold a license issued
10 under this subchapter or Subchapter I, Chapter 13, Agriculture
11 Code.

12 Sec. 2310.155. SERVICE TECHNICIAN LICENSE REQUIRED. Unless
13 exempt from the licensing requirement, an individual may not
14 perform or offer to perform device maintenance activities unless
15 the individual holds a service technician license issued by the
16 department under this subchapter.

17 Sec. 2310.156. SERVICE COMPANY LICENSE REQUIRED.

18 (a) Unless exempt from the license requirement, a person may not
19 employ or contract with an individual who performs or offers to
20 perform device maintenance activities unless the person holds a
21 service company license issued by the department under this
22 subchapter.

23 (b) Unless exempt from the licensing requirement, an
24 individual may not perform or offer to perform device maintenance
25 activities as a sole proprietor unless the individual holds a
26 service technician license and a service company license issued by
27 the department under this subchapter.

1 Sec. 2310.157. APPLICATION FOR LICENSE. (a) An applicant
2 for a license under this subchapter must submit to the department:

3 (1) an application form prescribed by the department;

4 (2) any other information required by the department;

5 and

6 (3) a fee in an amount set by the department.

7 (b) The department shall conduct a criminal background
8 check on each applicant who submits an application for a license
9 under this subchapter and on any controlling person of the
10 applicant. The department may, as permitted by law:

11 (1) examine any criminal conviction, guilty plea, or
12 deferred adjudication of the applicant or controlling person; and

13 (2) obtain any criminal history or record of the
14 applicant or controlling person.

15 Sec. 2310.158. SERVICE TECHNICIAN LICENSE REQUIREMENTS.

16 (a) The department shall issue a license to each qualified
17 applicant who applies for a service technician license.

18 (b) The commission by rule may require an applicant for the
19 issuance or renewal of a service technician license to:

20 (1) provide proof that the applicant has completed an
21 academic, trade, or professional course of instruction approved by
22 the department; and

23 (2) pass a written test, a practical skills test, or
24 both.

25 Sec. 2310.159. SERVICE COMPANY LICENSE REQUIREMENTS.

26 (a) The department shall issue a license to each qualified
27 applicant who applies for a service company license.

1 (b) An applicant for the issuance or renewal of a license
2 under this section must:

3 (1) submit to the department a certificate of
4 insurance evidencing that the applicant has an insurance policy
5 that meets the requirements of Section 2310.160 effective for the
6 period for which the license is to be issued or renewed; and

7 (2) meet any other requirements provided by commission
8 rule.

9 Sec. 2310.160. INSURANCE POLICY REQUIRED FOR SERVICE
10 COMPANY. A service company shall maintain a current effective
11 liability insurance policy issued by an insurance company
12 authorized to do business in this state or by a surplus lines
13 insurer that meets the requirements of Chapter 981, Insurance Code,
14 and rules adopted by the commissioner of insurance in an amount set
15 by commission rule and based on the type of licensed activities to
16 be performed.

17 Sec. 2310.161. TERM OF LICENSE. A license issued under this
18 subchapter is valid for one or two years as established by
19 commission rule.

20 Sec. 2310.162. LICENSE RENEWAL. The commission by rule
21 shall establish the requirements for renewing a license and issuing
22 a renewal license under this chapter, including payment of
23 applicable fees.

24 Sec. 2310.163. PRACTICE BY LICENSE HOLDER. (a) A license
25 holder shall perform device maintenance activities in compliance
26 with commission rules.

27 (b) A license holder may use only equipment approved by the

1 department, as provided by commission rules, when performing device
2 maintenance activities.

3 Sec. 2310.164. CRIMINAL PENALTY. (a) A person commits an
4 offense if the person violates Section 2310.155 or 2310.156 or
5 causes another person to violate Section 2310.155 or 2310.156.

6 (b) An offense under Subsection (a) is a Class B
7 misdemeanor, unless the person has been previously convicted of an
8 offense under this section, in which case the offense is a Class A
9 misdemeanor.

10 SUBCHAPTER E. SALE, DELIVERY, AND QUALITY OF MOTOR FUEL

11 Sec. 2310.201. NOTICE OF SALE OF ALCOHOL AND FUEL MIXTURE.

12 (a) A dealer may not sell or offer for sale motor fuel from a motor
13 fuel pump supplied by a storage tank into which motor fuel, in a
14 mixture in which at least one percent of the mixture measured by
15 volume is ethanol or methanol, has been delivered within the 60-day
16 period preceding the date of sale or offer of sale unless the dealer
17 prominently displays on the pump from which the mixture is sold a
18 sign that:

19 (1) is displayed on each side of the motor fuel pump on
20 which the price of the motor fuel mixture sold from the pump is
21 displayed;

22 (2) states "Contains Ethanol" or "Contains Methanol,"
23 as applicable;

24 (3) appears in contrasting colors with block letters
25 at least one-half inch high and one-fourth inch wide; and

26 (4) is displayed in a clear, conspicuous, and
27 prominent manner, visible to customers using either side of the

1 pump.

2 (b) This section does not prohibit the posting of any other
3 alcohol or additive information. Other alcohol or additive
4 information and any relevant posting are subject to regulation by
5 the department.

6 Sec. 2310.202. MINIMUM MOTOR FUEL QUALITY AND TESTING
7 STANDARDS. (a) The commission by rule shall adopt minimum motor
8 fuel quality and testing standards for motor fuel that is sold or
9 offered for sale in this state. The standards must comply with the
10 nationally recognized minimum standards established by:

11 (1) the American Society for Testing and Materials,
12 for motor fuels other than motor fuels blended with ethanol; and

13 (2) the National Institute of Standards and
14 Technology, for motor fuels blended with ethanol.

15 (b) The commission may adopt rules as necessary to bring
16 about uniformity between the standards established under this
17 subchapter and the nationally recognized standards described by
18 Subsection (a).

19 Sec. 2310.203. TESTING OF MOTOR FUEL QUALITY. (a) The
20 department or a representative of the department may collect
21 samples and conduct testing at any location where motor fuel is
22 kept, transferred, sold, or offered for sale to verify that the
23 motor fuel complies with the minimum standards required by Section
24 2310.202.

25 (b) The collection of samples and conducting of testing at a
26 dealer's location must be performed by a license holder under
27 Subchapter D of this chapter or Subchapter I, Chapter 13,

1 Agriculture Code, under contract with the dealer. The license
2 holder is considered a representative of the department for
3 purposes of this section.

4 (c) On arriving at a facility to conduct testing under
5 Subsection (a), a representative of the department shall notify the
6 owner or manager of the facility of the representative's presence
7 and purpose. The department representative shall follow the most
8 recent applicable procedures specified by the American Society for
9 Testing and Materials (ASTM) International Standard D4057, D4177,
10 D5842, or D5854 for the collection, sampling, and handling of fuel
11 to prepare for laboratory analysis.

12 (d) A person commits an offense if the person refuses to
13 allow a department representative to collect samples or conduct
14 motor fuel testing under Subsection (a).

15 (e) An offense under Subsection (d) is a Class C
16 misdemeanor.

17 Sec. 2310.204. RULES; FEES. (a) The commission may adopt
18 rules consistent with this subchapter for the regulation of the
19 sale of motor fuels, including motor fuels that contain ethanol and
20 methanol.

21 (b) The commission by rule may impose a fee for testing,
22 inspection, or the performance of other services provided as
23 determined necessary by the commission in the administration of
24 this subchapter. A fee imposed under this subsection shall be
25 collected from each dealer, distributor, and supplier, as defined
26 by Section 162.001, Tax Code, on a periodic basis determined by the
27 commission without regard to whether the motor fuel is subject to

1 regulation under this subchapter.

2 (c) The commission by rule shall prescribe the form for
3 reporting and remitting the fees imposed under this section.

4 (d) Fees collected under this section may be used only to
5 administer and enforce this subchapter.

6 Sec. 2310.205. CIVIL PENALTY. A person who sells or offers
7 for sale motor fuel in violation of this subchapter or a rule
8 adopted under this subchapter is liable to this state for a civil
9 penalty of not less than \$200 and not more than \$2,500.

10 Sec. 2310.206. ADMINISTRATIVE PENALTY. The commission may
11 impose an administrative penalty on a person under Subchapter F,
12 Chapter 51, if the person sells or offers for sale motor fuel in
13 violation of this subchapter or a rule adopted under this
14 subchapter.

15 SECTION 2. Sections 13.1015 and 13.1016, Agriculture Code,
16 are transferred to Subchapter C, Chapter 2310, Occupations Code, as
17 added by this Act, redesignated as Sections 2310.102 and 2310.103,
18 Occupations Code, and amended to read as follows:

19 Sec. 2310.102 [~~13.1015~~]. INSPECTION OF MOTOR FUEL METERING
20 DEVICES. (a) Unless a motor fuel metering device is exempt from
21 the application of this section by commission [~~department~~] rule, a
22 motor fuel metering device shall be inspected, tested, and
23 calibrated for correctness by a license holder under Subchapter D
24 of this chapter or Subchapter I, Chapter 13, Agriculture Code, at
25 least once every two years if the device is:

26 (1) kept for sale, sold, or used by a proprietor,
27 agent, lessee, or employee in proving the measure of motor fuel; or

1 (2) purchased, offered, or submitted by a proprietor,
2 agent, lessee, or employee for sale, hire, or award.

3 (b) Inspection, testing, and calibration under this section
4 must be performed by a license holder under Subchapter D of this
5 chapter or Subchapter I, Chapter 13, Agriculture Code, under
6 contract with the operator or user of the motor fuel metering
7 device.

8 Sec. 2310.103 [~~13.1016~~]. REQUIRED REGISTRATION OF MOTOR
9 FUEL METERING DEVICES. (a) Unless a motor fuel metering device is
10 exempt from the application of this section by commission
11 [~~department~~] rule, a person who owns or operates a motor fuel
12 metering device shall register the device with the department
13 before using the device for a commercial transaction.

14 (b) An application for a device registration must:

15 (1) be submitted to the department on a form
16 prescribed by the department;

17 (2) be accompanied by any other document or form
18 required by the department;

19 (3) include any fees [~~the registration fee~~] required
20 under Section 2310.108 [~~13.1151~~]; and

21 (4) include documentation of compliance with Section
22 2310.102 [~~13.1015~~].

23 (c) A registration under this section is valid for one or
24 two years as [~~year unless a different period is~~] established by
25 commission [~~department~~] rule. The registration must be renewed at
26 or before the end of each registration period and the application
27 for renewal must include documentation of compliance with Section

1 2310.102 [~~13.1015~~].

2 (d) If a person fails to register or renew a registration as
3 required by this section, the department may not issue a
4 certificate to operate the motor fuel metering device. The
5 department shall issue the certificate when the operator submits to
6 the department the items required by Subsection (b).

7 (e) The department may assess a late fee if the registration
8 of one or more devices located on a premises is renewed after the
9 end of the registration period because of a registration error,
10 including one or more devices not properly registered, failure to
11 register the correct type of device, or failure to timely register a
12 previously registered device. The amount of the late fee [~~penalty~~]
13 may not exceed \$50 per device, with a maximum penalty amount of \$500
14 per year for the premises.

15 SECTION 3. Sections 17.001, 17.0515, 17.052, 17.053,
16 17.054, 17.055, 17.152, 17.153, and 17.154, Agriculture Code, are
17 transferred to Subchapter E, Chapter 2310, Occupations Code, as
18 added by this Act, redesignated as Sections 2310.2001, 2310.2011,
19 2310.2012, 2310.2013, 2310.2014, 2310.2015, 2310.207, 2310.208,
20 and 2310.209, Occupations Code, and amended to read as follows:

21 Sec. 2310.2001 [~~17.001~~]. DEFINITIONS. In this subchapter
22 [~~chapter~~]:

23 (1) "Automotive fuel rating" has the meaning assigned
24 by 15 U.S.C. Section 2821.

25 (2) "Dealer" means a person who:

26 (A) is the operator of a service station or other
27 retail outlet; and

1 (B) delivers motor fuel into the fuel tanks of
2 motor vehicles or motor boats.

3 (3) "Distributor" has the meaning assigned by Section
4 162.001, Tax Code.

5 (4) "Jobber" means a person who purchases tax-paid
6 gasoline for resale or distribution at wholesale.

7 (5) "Motor fuel" has the meaning assigned by Section
8 162.001, Tax Code.

9 (6) "Supplier" has the meaning assigned by Section
10 162.001, Tax Code.

11 (7) "Wholesaler" means a person who purchases tax-paid
12 gasoline for resale or distribution at wholesale.

13 Sec. 2310.2011 [~~17.0515~~]. NOTICE OF MOTOR FUEL TAX RATES.

14 (a) The department shall display on each motor fuel pump from
15 which motor fuel is sold at retail a notice of the current rates of
16 the federal and state motor fuel taxes. The notice must:

17 (1) display the current rate of each tax, in cents per
18 gallon, for each type of motor fuel;

19 (2) be displayed on each face of the motor fuel pump on
20 which the price of the motor fuel sold from the pump is displayed;
21 and

22 (3) be displayed in a clear, conspicuous, and
23 prominent manner.

24 (b) The department shall include the notice required under
25 Subsection (a) with any other notice displayed or required by
26 commission [~~department~~] rule to be displayed[, ~~including a "Fuel~~
27 ~~Feedback?" sticker~~].

1 Sec. 2310.2012 [~~17.052~~]. DOCUMENTATION OF MOTOR FUEL
2 MIXTURE SALES. (a) Except as provided by Subsection (b), a
3 distributor, supplier, wholesaler, or jobber of motor fuel may not
4 deliver to an outlet in this state a motor fuel mixture that
5 contains ethanol or methanol exceeding one percent by volume of the
6 mixture unless, at the time of the delivery of the mixture, the
7 person also delivers to the outlet receiving the delivery a
8 manifest, bill of sale, bill of lading, or other document
9 evidencing delivery of the mixture, that includes a statement
10 containing:

11 (1) the percentage of ethanol or methanol contained in
12 the mixture; and

13 (2) the types and percentages of any associated
14 cosolvents contained in the mixture.

15 (b) Subsection (a) does not apply to a delivery made into
16 the fuel supply tanks of a motor vehicle.

17 (c) The commission [~~commissioner~~] by rule may prescribe the
18 form of the statement required by Subsection (a).

19 Sec. 2310.2013 [~~17.053~~]. RECORD OF DELIVERY DOCUMENTS;
20 INSPECTION AUTHORIZED. (a) Each dealer shall keep a copy of each
21 document required to be delivered to the dealer by Section
22 2310.2012 [~~17.052~~] until the fourth anniversary of the delivery
23 date.

24 (b) Each distributor, supplier, wholesaler, and jobber of
25 motor fuel shall keep a copy of each document required to be
26 delivered to the dealer by Section 2310.2012 [~~17.052~~] until the
27 fourth anniversary of the delivery date.

1 (c) The department [~~commissioner~~] or an authorized
2 representative of the department [~~commissioner~~] may inspect
3 documents described by this section. On written notice issued
4 [~~presented~~] by the department [~~commissioner~~] or an authorized
5 representative of the department [~~commissioner~~] to any employee at
6 a dealer's station or retail outlet or mailed to the principal place
7 of business of a dealer, distributor, supplier, wholesaler, or
8 jobber, the dealer, distributor, supplier, wholesaler, or jobber
9 shall provide the department [~~commissioner~~] or authorized
10 representative of the department [~~commissioner~~] with the documents
11 described by this section within the period specified in the
12 notice.

13 (d) The commission [~~commissioner~~] by rule may:

14 (1) require each dealer, distributor, supplier,
15 wholesaler, and jobber to maintain and make available to the
16 department:

17 (A) invoices, receipts, or other transmittal
18 documents or records, including electronically stored information,
19 showing or describing the purchase, sale, delivery, or distribution
20 of motor fuel;

21 (B) invoices, receipts, work orders, reports, or
22 other documents, including electronically stored information,
23 showing or describing the installation, maintenance, or repair of:

24 (i) motor fuel dispensing devices; and

25 (ii) any equipment used in connection with
26 motor fuel dispensing devices to record, display, or produce
27 receipts or audit trails concerning the purchase, sale, delivery,

1 or distribution of motor fuel; and

2 (C) any record or other document related to the
3 sampling and testing of motor fuel purchased, sold, delivered, or
4 distributed by the dealer, distributor, supplier, wholesaler, or
5 jobber; and

6 (2) prescribe:

7 (A) the manner of filing documents or records
8 required to be kept under this section or by commission
9 [~~department~~] rule; and

10 (B) the time, place, and manner of inspection of
11 the documents or records.

12 Sec. 2310.2014 [~~17.054~~]. DOCUMENTS RELATING TO POSTING OR
13 CERTIFICATION OF AUTOMOTIVE FUEL RATINGS. (a) Each dealer shall
14 keep for at least one year a copy of:

15 (1) each delivery ticket or letter of certification on
16 which the dealer based a posting of the automotive fuel rating of
17 motor fuel contained in a motor fuel pump;

18 (2) each delivery ticket or letter of certification
19 that is required to be delivered to the dealer under 16 C.F.R. Part
20 306; and

21 (3) records of any automotive fuel rating
22 determination made by the dealer under 16 C.F.R. Part 306.

23 (b) Each distributor or supplier shall keep for at least one
24 year at the distributor's or supplier's principal place of business
25 a copy of each delivery ticket or letter of certification required
26 to be delivered by the distributor or supplier to a dealer in this
27 state under 16 C.F.R. Part 306.

1 (c) The department [~~commissioner~~] or an authorized
2 representative of the department [~~commissioner~~] may inspect a
3 document required to be kept under this section. On written notice
4 issued [~~presented~~] by the department [~~commissioner~~] or an
5 authorized representative of the department [~~commissioner~~] to any
6 employee at a dealer's station or retail outlet or mailed to the
7 dealer's principal place of business, the dealer shall provide the
8 department [~~commissioner~~] or authorized representative of the
9 department [~~commissioner~~] with the documents described by this
10 section within the period specified in the notice.

11 (d) The commission [~~commissioner~~] by rule may:

12 (1) require each dealer to maintain and make available
13 to the department:

14 (A) invoices, receipts, or other transmittal
15 documents or records, including electronically stored information,
16 showing or describing the purchase, sale, delivery, or distribution
17 of motor fuel;

18 (B) invoices, receipts, work orders, reports, or
19 other documents, including electronically stored information,
20 showing or describing the installation, maintenance, or repair of:

21 (i) motor fuel dispensing devices; and

22 (ii) any equipment used in connection with
23 motor fuel dispensing devices to record, display, or produce
24 receipts or audit trails concerning the purchase, sale, delivery,
25 or distribution of motor fuel; and

26 (C) any record or other document related to the
27 sampling and testing of motor fuel purchased, sold, delivered, or

1 distributed by the dealer; and

2 (2) prescribe:

3 (A) the manner of filing documents or records
4 required to be kept under this section or by commission
5 [~~department~~] rule; and

6 (B) the time, place, and manner of inspection of
7 the documents or records.

8 Sec. 2310.2015 [~~17.055~~]. SALE OF MOTOR FUEL WITH INACCURATE
9 AUTOMOTIVE FUEL RATING. (a) A dealer may not sell or offer for
10 sale from a motor fuel pump motor fuel that has an automotive fuel
11 rating lower than the rating for that motor fuel posted on the pump.

12 (b) A distributor or supplier of motor fuel may not deliver
13 or transfer to a dealer in this state motor fuel that has an
14 automotive fuel rating lower than the certification of the rating
15 the distributor or supplier is required to make to the dealer under
16 federal law.

17 Sec. 2310.207 [~~17.152~~]. CIVIL ACTION. (a) If a dealer or
18 a distributor, supplier, wholesaler, or jobber of motor fuel
19 violates Section 2310.201, 2310.2012, 2310.2013, 2310.2014, or
20 2310.2015 [~~17.051, 17.052, 17.053, 17.054, or 17.055~~], a motor fuel
21 user who purchased the motor fuel and sustained damages or who has a
22 complaint about the product may bring an action against the dealer,
23 distributor, supplier, wholesaler, or jobber.

24 (b) The action may be brought, without regard to the
25 specific amount of damages, in the district court in any county in
26 which:

27 (1) the dealer, distributor, supplier, wholesaler, or

1 jobber transacts business; or

2 (2) the dealer resides.

3 (c) The court shall award to a motor fuel user who prevails
4 in an action under this section:

5 (1) the amount of actual damages;

6 (2) equitable relief as determined by the court to be
7 necessary to remedy the effects of the violation, including a
8 declaratory judgment, permanent injunctive relief, and temporary
9 injunctive relief; and

10 (3) court costs and attorney's fees that are
11 reasonable in relation to the amount of work expended.

12 (d) In addition to the remedies provided under Subsection
13 (c), on finding that the defendant wilfully or knowingly violated
14 Section 2310.201, 2310.2012, or 2310.2013 [~~17.051, 17.052, or~~
15 ~~17.053~~], the trier of fact shall award not more than three times the
16 amount of actual damages.

17 (e) A violation of Section 2310.201, 2310.2012, 2310.2013,
18 2310.2014, or 2310.2015 [~~17.051, 17.052, 17.053, 17.054, or 17.055~~]
19 also constitutes a deceptive trade practice under Subchapter E,
20 Chapter 17, Business & Commerce Code.

21 (f) An action alleging a violation of Section 2310.201,
22 2310.2012, 2310.2013, 2310.2014, or 2310.2015 [~~17.051, 17.052,~~
23 ~~17.053, 17.054, or 17.055~~] must be commenced and prosecuted not
24 later than the second anniversary of the date on which the cause of
25 action accrues.

26 Sec. 2310.208 [~~17.153~~]. CIVIL PENALTY. A dealer,
27 distributor, supplier, wholesaler, or jobber who violates Section

1 2310.201, 2310.2012, 2310.2013, 2310.2014, or 2310.2015 [~~17.051,~~
2 ~~17.052, 17.053, 17.054, or 17.055~~] is liable to this state for a
3 civil penalty of not less than \$200 and not more than \$10,000.

4 Sec. 2310.209 [~~17.154~~]. CRIMINAL OFFENSES. (a) A person
5 commits an offense if the person knowingly violates Section
6 2310.201, 2310.2012, 2310.2013, 2310.2014, or 2310.2015 [~~17.051,~~
7 ~~17.052, 17.053, 17.054, or 17.055~~] or a rule adopted by the
8 commission [~~commissioner~~] to enforce or implement those sections.

9 (b) A person commits an offense if the person knowingly:

10 (1) refuses to permit an authorized [~~a~~] person
11 [~~authorized by Section 17.102~~] to test any motor fuel sold or held
12 for sale in this state;

13 (2) refuses to permit inspection of any document
14 required to be kept or delivered by this subchapter [~~chapter~~] on
15 request of a person authorized to inspect the documents under
16 Section 2310.2013 or 2310.2014 [~~17.053 or 17.054~~]; or

17 (3) mutilates, destroys, secretes, forges, or
18 falsifies any document, record, report, or sign required to be
19 delivered, kept, filed, or posted by this subchapter [~~chapter~~] or
20 any rule adopted by the commission [~~commissioner~~] to enforce this
21 subchapter [~~chapter~~].

22 (c) An offense under Subsection (a) is a Class C
23 misdemeanor.

24 (d) An offense under Subsection (b) is a Class B
25 misdemeanor.

26 (e) The department or executive director [~~commissioner or~~
27 ~~the authorized representative of the commissioner~~] may request the

1 appropriate prosecuting attorney to prosecute a violation of this
2 chapter.

3 SECTION 4. Section 12.020(c), Agriculture Code, is amended
4 to read as follows:

5 (c) The provisions of law subject to this section and the
6 applicable penalty amounts are as follows:

7 8 Provision	Amount of Penalty
9 10 Chapters 13, 14A, [17] 18, 19, 41, 11 46, 61, 72, 73, 74, 76, 94, 95, 101, 12 102, 103, 125, 132, 13 and 134	not more than \$5,000
14 15 16 Subchapters A, B, and C, Chapter 71	not more than \$5,000
17 Chapter 14	not more than \$10,000
18 Chapter 1951, Occupations Code	not more than \$5,000
19 Chapter 153, Natural Resources 20 Code	not more than \$5,000
21 Section 91.009	not more than \$5,000.

23 SECTION 5. Section 13.001, Agriculture Code, is amended by
24 adding Subsection (c) to read as follows:

25 (c) In this chapter, "commodity" does not include motor
26 fuel.

27 SECTION 6. Section 13.024(b), Agriculture Code, is amended
28 to read as follows:

29 (b) Except as provided by Subsection [~~Subsections~~] (c) [~~and~~
30 ~~(d)~~], all other measures of capacity for liquids are derived from
31 the gallon by continual division by two, making half gallons,
32 quarts, pints, half pints, and gills.

33 SECTION 7. Section 13.114, Agriculture Code, is amended to
34 read as follows:

35 Sec. 13.114. TOLERANCES. The department shall establish

1 specifications and tolerances for commercial weighing or measuring
2 devices used in this state. The specifications and tolerances
3 shall be similar to those recommended by the National Institute of
4 Standards and Technology[, ~~except that the specifications and~~
5 ~~tolerances for motor fuel metering devices shall be the same as~~
6 ~~those recommended by the National Institute of Standards and~~
7 ~~Technology~~].

8 SECTION 8. Section 162.009, Tax Code, is amended to read as
9 follows:

10 Sec. 162.009. AUTHORITY TO STOP AND EXAMINE. To enforce
11 this chapter, the comptroller or a peace officer may stop a motor
12 vehicle that appears to be operating with or transporting motor
13 fuel to examine the shipping document, cargo manifest, or invoices
14 required to be carried, examine a license or copy of a license that
15 may be required to be carried, take samples from the fuel supply or
16 cargo tanks, and make any other investigation that could reasonably
17 be made to determine whether the taxes have been paid or accounted
18 for by a license holder or a person required to be licensed. The
19 comptroller, a peace officer, an employee of the attorney general's
20 office, an employee of the Texas Commission on Environmental
21 Quality, or an employee of the Texas Department of Licensing and
22 Regulation [~~Agriculture~~] may take samples of motor fuel from a
23 storage tank or container to:

24 (1) determine if the fuel contains hazardous waste or
25 is adulterated; or

26 (2) allow the comptroller to determine whether taxes
27 on the fuel have been paid or accounted for to this state.

1 SECTION 9. Section 162.403, Tax Code, is amended to read as
2 follows:

3 Sec. 162.403. CRIMINAL OFFENSES. Except as provided by
4 Section 162.404, a person commits an offense if the person:

5 (1) refuses to stop and permit the inspection and
6 examination of a motor vehicle transporting or using motor fuel on
7 the demand of a peace officer or the comptroller;

8 (2) is required to hold a valid trip permit or
9 interstate trucker's license, but operates a motor vehicle in this
10 state without a valid trip permit or interstate trucker's license;

11 (3) transports gasoline or diesel fuel in any cargo
12 tank that has a connection by pipe, tube, valve, or otherwise with
13 the fuel injector or carburetor or with the fuel supply tank feeding
14 the fuel injector or carburetor of the motor vehicle transporting
15 the product;

16 (4) sells or delivers gasoline or diesel fuel from a
17 fuel supply tank that is connected with the fuel injector or
18 carburetor of a motor vehicle;

19 (5) owns or operates a motor vehicle for which reports
20 or mileage records are required by this chapter without an
21 operating odometer or other device in good working condition to
22 record accurately the miles traveled;

23 (6) sells or delivers dyed diesel fuel for the
24 operation of a motor vehicle on a public highway;

25 (7) uses dyed diesel fuel for the operation of a motor
26 vehicle on a public highway except as allowed under Section
27 162.235;

1 (8) refuses to permit the comptroller or the attorney
2 general to inspect, examine, or audit a book or record required to
3 be kept by a license holder, other user, or any person required to
4 hold a license under this chapter;

5 (9) refuses to permit the comptroller or the attorney
6 general to inspect or examine any plant, equipment, materials, or
7 premises where motor fuel is produced, processed, blended, stored,
8 sold, delivered, or used;

9 (10) refuses to permit the comptroller, the attorney
10 general, an employee of either of those officials, a peace officer,
11 an employee of the Texas Commission on Environmental Quality, or an
12 employee of the Texas Department of Licensing and Regulation
13 [~~Agriculture~~] to measure or gauge the contents of or take samples
14 from a storage tank or container on premises where motor fuel is
15 produced, processed, blended, stored, sold, delivered, or used;

16 (11) is a license holder, a person required to be
17 licensed, or another user and fails or refuses to make or deliver to
18 the comptroller a report required by this chapter to be made and
19 delivered to the comptroller;

20 (12) is an importer who does not obtain an import
21 verification number when required by this chapter;

22 (13) purchases motor fuel for export, on which the tax
23 imposed by this chapter has not been paid, and subsequently diverts
24 or causes the motor fuel to be diverted to a destination in this
25 state or any other state or country other than the originally
26 designated state or country without first obtaining a diversion
27 number;

1 (14) conceals motor fuel with the intent of engaging
2 in any conduct proscribed by this chapter or refuses to make sales
3 of motor fuel on the volume-corrected basis prescribed by this
4 chapter;

5 (15) refuses, while transporting motor fuel, to stop
6 the motor vehicle the person is operating when called on to do so by
7 a person authorized to stop the motor vehicle;

8 (16) refuses to surrender a motor vehicle and cargo
9 for impoundment after being ordered to do so by a person authorized
10 to impound the motor vehicle and cargo;

11 (17) mutilates, destroys, or secretes a book or record
12 required by this chapter to be kept by a license holder, other user,
13 or person required to hold a license under this chapter;

14 (18) is a license holder, other user, or other person
15 required to hold a license under this chapter, or the agent or
16 employee of one of those persons, and makes a false entry or fails
17 to make an entry in the books and records required under this
18 chapter to be made by the person or fails to retain a document as
19 required by this chapter;

20 (19) transports in any manner motor fuel under a false
21 cargo manifest or shipping document, or transports in any manner
22 motor fuel to a location without delivering at the same time a
23 shipping document relating to that shipment;

24 (20) engages in a motor fuel transaction that requires
25 that the person have a license under this chapter without then and
26 there holding the required license;

27 (21) makes and delivers to the comptroller a report

1 required under this chapter to be made and delivered to the
2 comptroller, if the report contains false information;

3 (22) forges, falsifies, or alters an invoice or
4 shipping document prescribed by law;

5 (23) makes any statement, knowing said statement to be
6 false, in a claim for a tax refund filed with the comptroller;

7 (24) furnishes to a licensed supplier or distributor a
8 signed statement for purchasing diesel fuel tax-free and then uses
9 the tax-free diesel fuel to operate a diesel-powered motor vehicle
10 on a public highway;

11 (25) holds an aviation fuel dealer's license and makes
12 a taxable sale or use of any gasoline or diesel fuel;

13 (26) fails to remit any tax funds collected or
14 required to be collected by a license holder, another user, or any
15 other person required to hold a license under this chapter;

16 (27) makes a sale of dyed diesel fuel tax-free into a
17 storage facility of a person who:

18 (A) is not licensed as a distributor, as an
19 aviation fuel dealer, or as a dyed diesel fuel bonded user; or

20 (B) does not furnish to the licensed supplier or
21 distributor a signed statement prescribed in Section 162.206;

22 (28) makes a sale of gasoline tax-free to any person
23 who is not licensed as an aviation fuel dealer;

24 (29) purchases any motor fuel tax-free when not
25 authorized to make a tax-free purchase under this chapter;

26 (30) purchases motor fuel with the intent to evade any
27 tax imposed by this chapter or accepts a delivery of motor fuel by

1 any means and does not at the same time accept or receive a shipping
2 document relating to the delivery;

3 (31) transports motor fuel for which a cargo manifest
4 or shipping document is required to be carried without possessing
5 or exhibiting on demand by an officer authorized to make the demand
6 a cargo manifest or shipping document containing the information
7 required to be shown on the manifest or shipping document;

8 (32) imports, sells, uses, blends, distributes, or
9 stores motor fuel within this state on which the taxes imposed by
10 this chapter are owed but have not been first paid to or reported by
11 a license holder, another user, or any other person required to hold
12 a license under this chapter;

13 (33) blends products together to produce a blended
14 fuel that is offered for sale, sold, or used and that expands the
15 volume of the original product to evade paying applicable motor
16 fuel taxes;

17 (34) evades or attempts to evade in any manner a tax
18 imposed on motor fuel by this chapter;

19 (35) delivers compressed natural gas or liquefied
20 natural gas into the fuel supply tank of a motor vehicle and the
21 person does not hold a valid compressed natural gas and liquefied
22 natural gas dealer's license; or

23 (36) makes a tax-free delivery of compressed natural
24 gas or liquefied natural gas into the fuel supply tank of a motor
25 vehicle, unless the delivery is exempt from tax under Section
26 162.356.

27 SECTION 10. The following provisions of the Agriculture

1 Code are repealed:

- 2 (1) Section 13.001(a)(1-a);
- 3 (2) Section 13.024(d);
- 4 (3) Section 13.029(b);
- 5 (4) Section 13.101(e);
- 6 (5) Section 13.1011(e);
- 7 (6) Section 13.1017;
- 8 (7) Section 13.1151(b);
- 9 (8) the heading to Chapter 17;
- 10 (9) the heading to Subchapter A, Chapter 17;
- 11 (10) the heading to Subchapter B, Chapter 17;
- 12 (11) Section 17.051;
- 13 (12) Subchapter B-1, Chapter 17;
- 14 (13) Subchapter C, Chapter 17;
- 15 (14) the heading to Subchapter D, Chapter 17;
- 16 (15) Section 17.151;
- 17 (16) Section 17.155; and
- 18 (17) Section 17.156.

19 SECTION 11. (a) All rules, fees, policies, procedures,
20 decisions, and forms of the commissioner of agriculture or the
21 Department of Agriculture that relate to a program or activity
22 transferred under this Act and that are in effect on the effective
23 date of the transfer remain in effect until changed by the Texas
24 Commission of Licensing and Regulation or Texas Department of
25 Licensing and Regulation, as appropriate. The Department of
26 Agriculture may not, on or after the effective date of this Act,
27 change a rule, fee, policy, procedure, decision, or form that

1 relates to a program or activity transferred under this Act.

2 (b) A license, permit, certificate of registration, notice,
3 or other authorization issued by the Department of Agriculture for
4 a program or activity transferred under this Act is continued in
5 effect as a license, permit, certificate, notice, or other
6 authorization of the Texas Department of Licensing and Regulation
7 on and after the effective date of the transfer.

8 (c) A complaint, investigation, contested case, or other
9 proceeding before the commissioner of agriculture, the Department
10 of Agriculture, or the State Office of Administrative Hearings
11 relating to a program or activity transferred under this Act that is
12 pending on the effective date of the transfer is transferred
13 without change in status to the Texas Commission of Licensing and
14 Regulation or Texas Department of Licensing and Regulation, as
15 appropriate. The Department of Agriculture may not, on or after the
16 effective date of this Act, take any action on a complaint,
17 investigation, contested case, or other proceeding relating to a
18 program or activity transferred under this Act without the approval
19 of the executive director of the Texas Department of Licensing and
20 Regulation or a person designated by the executive director of that
21 department.

22 (d) All money, contracts, leases, property, software source
23 code and documentation, records, and obligations of the Department
24 of Agriculture relating to a program or activity transferred under
25 this Act are transferred to the Texas Department of Licensing and
26 Regulation on the effective date of the transfer of the program or
27 activity.

1 (e) The unexpended and unobligated balance of any money
2 appropriated by the legislature relating to a program or activity
3 transferred under this Act is transferred to the Texas Department
4 of Licensing and Regulation on the effective date of the transfer of
5 the program or activity.

6 (f) Unless the context indicates otherwise, on or after the
7 effective date of the transfer a reference in law or administrative
8 rule to the commissioner of agriculture or the Department of
9 Agriculture with respect to a program or activity transferred under
10 this Act means the Texas Commission of Licensing and Regulation or
11 Texas Department of Licensing and Regulation, as appropriate.

12 SECTION 12. (a) As soon as practicable after the effective
13 date of this Act, the Department of Agriculture and the Texas
14 Department of Licensing and Regulation shall adopt a transition
15 plan to provide for the orderly transfer of powers, duties,
16 functions, programs, and activities under this Act. The transition
17 plan must provide for the transfer to be completed not later than
18 September 1, 2020.

19 (b) The Department of Agriculture shall provide the Texas
20 Department of Licensing and Regulation with access to any systems,
21 facilities, or information necessary for the Texas Department of
22 Licensing and Regulation to accept a program or activity
23 transferred under this Act.

24 (c) The Texas Department of Licensing and Regulation may
25 establish and lead a stakeholder workgroup to provide input,
26 advice, and recommendations to the Department of Agriculture and
27 Texas Department of Licensing and Regulation on the orderly

1 transfer of powers, duties, functions, programs, and activities
2 under this Act. The Texas Department of Licensing and Regulation
3 shall establish the size, composition, and scope of the stakeholder
4 workgroup.

5 (d) On the date specified in the transition plan required
6 under Subsection (a) of this section for the transfer of a program
7 or activity transferred by this Act to the Texas Department of
8 Licensing and Regulation, all full-time equivalent employee
9 positions at the Department of Agriculture that directly and
10 indirectly concern the administration or enforcement of the program
11 or activity being transferred become positions at the Texas
12 Department of Licensing and Regulation. The Texas Department of
13 Licensing and Regulation shall post the positions for hiring and,
14 when filling the positions, shall give consideration to, but is not
15 required to hire, an applicant who, immediately before the date of
16 the transfer, was an employee at the Department of Agriculture
17 involved in administering or enforcing the transferred program or
18 activity.

19 (e) Subsection (c) of this section and this subsection
20 expire October 1, 2020.

21 SECTION 13. (a) Except as provided by Subsection (b) of
22 this section, this Act takes effect September 1, 2020.

23 (b) Sections 10 and 11 of this Act take effect immediately
24 if this Act receives a vote of two-thirds of all the members elected
25 to each house, as provided by Section 39, Article III, Texas
26 Constitution. If this Act does not receive the vote necessary for
27 those sections of this Act to have immediate effect, those sections

1 take effect September 1, 2019.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 2119 passed the Senate on April 11, 2019, by the following vote: Yeas 27, Nays 4; and that the Senate concurred in House amendments on May 23, 2019, by the following vote: Yeas 27, Nays 4.

Secretary of the Senate

I hereby certify that S.B. No. 2119 passed the House, with amendments, on May 16, 2019, by the following vote: Yeas 129, Nays 10, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor